

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE

Call to Order: By **CHAIRMAN JOHN WITT**, on February 16, 1999 at
8:05 A.M., in Room 201 Capitol.

ROLL CALL

Members Present:

Rep. John Witt, Chairman (R)
Sen. Tom Keating, Vice Chairman (R)
Sen. William Crismore (R)
Rep. Dick Haines (R)
Sen. Linda Nelson (D)
Rep. Joe Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Summer Alger, Committee Secretary
Roger Lloyd, Legislative Branch
Doug Schmitz, OBPP

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 2 - Dept. of Environmental Quality Budget
Executive Action: HB 2 - Dept. of Environmental Quality Budget

HEARING ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE DIVISION

Roger Lloyd handed out the requested DEQ language for HB 2 and
discussed it.

EXHIBIT (jnh38a01)

Sen. Keating asked if the base is limited by the estimated number
of permits. He also remarked that the committee will have to put

in some contingency language for the fee increase. **Judy Hanson** replied, as did **Jan Sensibaugh**.

Present Law Adjustments:

DP 1

Sen. Keating asked if this decision package is just personnel, strictly personal services, and operating costs. He then asked about contracted appropriations and county review refunds.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 1; Side : A; Approx. Time Counter : 15.5}

Motion/Vote: **SEN. KEATING** moved TO RECONSIDER PREVIOUS ACTION ON DP 1, DP 9 AND DP 10. **SECONDED** by **SEN. CRISMORE**. Motion carried unanimously.

{Tape : 1; Side : A; Approx. Time Counter : 19.4}

Motion/Vote: **SEN. KEATING** moved that DP 1 BE ADOPTED, DP 9 BE ADOPTED AS ONE-TIME-ONLY, AND DP 10 BE ADOPTED, AND RESTRICT SPENDING FOR ALL TO THE SUBDIVISION PROGRAM . **SECONDED** by **SEN. CRISMORE**. Motion carried 5-1 with Witt voting no.

Mr. Lloyd then asked if #2 under the HB 2 language appropriation of Exhibit 1 drops out, to which the committee replied yes.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 1; Side : A; Approx. Time Counter : 21.4}

Motion/Vote: **SEN. KEATING** moved that THE HB 2 LANGUAGE FOR ENVIRONMENTAL QUALITY PROTECTION FUND BE ADOPTED. **SECONDED** by **SEN. CRISMORE**. Motion carried unanimously.

DP 2 & DP 3

Sen. Keating asked about the status of SB 64, and **Director Simonich** commented on why the division is still requesting the 3 FTE, saying that they are to focus primarily on Title 5 of the Clean Air Act. **Chairman Witt** asked what has changed between today and FY98/99, and the Director replied that they have not been getting the Title 5 permits done. **Ms. Sensibaugh** commented

that they have been getting pressure from EPA who did a program audit.

Sen. Crismore asked about the 3 FTE's with the fees at \$23.43/ton wondering what the cap would be. The division said they would raise the cap to \$250,000. **Chairman Witt** questioned if the rate of \$23.38/ton was what the industry was requesting. The division replied that last year they had carry-over funds, so fees were artificially low, otherwise they would have been \$23.43/ton. **Chairman Witt** asked if the industry said that \$21.78/ton was okay, to which the division replied that at that level it allows no new FTE's, but helps with increased costs. **Chairman Witt** asked if this motion fails, would the rate remain at \$20.38/ton, and the division replied yes.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 1; Side : B; Approx. Time Counter : 3.4}

Motion/Vote: SEN. KEATING moved that DP 2 AND DP 3 BE ADOPTED WITH 1 FTE AT THE FEE LEVEL OF \$22.62/TON. SECONDED by SEN. CRISMORE. Motion failed 3-3 with Crismore, Keating, and Nelson voting aye.

DP 4

Ms. Sensibaugh commented that there would not be an increase in fees, and is funded mostly by federal funds.

Mr. Lloyd handed out a sheet on DEQ Decision Packages With Possible CI-75 Issues.

EXHIBIT (jnh38a02)

Sen. Keating questioned who pays the fees, and **Ms. Sensibaugh** replied the public water supply systems. He then asked where the fund balance is for this, and if the committee is drawing down the balance for this. The division replied yes, at about \$100,000/year, and at the current level of permitting, they are not anticipating any growth.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 1; Side : B; Approx. Time Counter : 11.5}

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Motion/Vote: SEN. CRISMORE moved that DP 4 BE ADOPTED. SECONDED by SEN. KEATING. Motion failed 3-3 with Crismore, Keating, and Nelson voting aye.

DP 5

Sen. Keating asked **Mr. Lloyd** why this is under the CI-75, to which he replied that there is an increase over base (FY98), so it may translate into a CI-75 Issue.

Sen. Keating then inquired if the DEQ fees are set statutorily (yes), so is it a part of the \$600,000 balance account (yes). He then asked who this service is for, and the division replied that it is for water supplies and open cut mining (sand and gravel pit permitting).

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 1; Side : B; Approx. Time Counter : 16.6}

Motion/Vote: SEN. CRISMORE moved that DP 5 BE ADOPTED. SECONDED by SEN. KEATING. Motion failed 3-3 with Crismore, Keating, and Tropila voting aye.

DP 7

Ms. Sensibaugh commented that this decision package would be using the fund balance. **Sen. Keating** questioned further, including what the staff consists of now. He then asked **Mr. Lloyd** about CI-75. The Senator commented that if the fund balance is sufficient for next biennium, it is okay, but then that moves the problem into the next biennium. **Sen. Keating** then asked about asbestos and inspections.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING COMPLIANCE
DIVISION**

{Tape : 1; Side : B; Approx. Time Counter : 23.4}

Motion/Vote: REP. TROPILA moved that DP 7 BE ADOPTED. SECONDED by SEN. CRISMORE. Motion carried 4-1 with Witt voting no.

*Sen. Nelson was not present.

DP 8

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Ms. Sensibaugh commented that this decision package also reflects the base adjustments because this area was not fully staffed.

Sen. Keating asked if the database is all handled in Central Services. **Ms. Sensibaugh** replied no, that the maintenance of the system is Central Service, though the maintenance of data entry is Permitting.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 1; Side : B; Approx. Time Counter : 27.4}

Motion/Vote: SEN. KEATING moved that DP 8 BE ADOPTED. SECONDED by SEN. CRISMORE. Motion carried 4-1 with Witt voting no.

*Sen. Nelson was not present.

DP 11

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 1; Side : B; Approx. Time Counter : 30.2}

Motion/Vote: SEN. KEATING moved that DP 11 BE ADOPTED. Motion carried 3-2 with Haines and Witt voting no.

*Sen. Nelson did not vote.

DP 12 & DP 13

Chairman Witt asked what Consultant Services does, and **Mr. Lloyd** commented that it is funded both by general and federal funds.

Sen. Keating asked the department why they are using general fund instead of money from the Hazardous Waste CERCLA Account, then asked if this DP area is an appropriate use for the account.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 2; Side : A; Approx. Time Counter : 4.4}

Motion/Vote: SEN. KEATING moved that DP 12 & DP 13 BE ADOPTED, BUT SUBSTITUTE GENERAL FUND MONEY WITH THE HAZARDOUS WASTE CERCLA ACCOUNT. SECONDED by SEN. NELSON. Motion carried unanimously.

DP 14

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Division personnel commented that they only need risk assessments for \$28,000, and need base adjustments for smoke management program of \$14,000. So, the total is \$42,000/year versus the \$60,000 in FY00 and \$63,000 in FY01 of the original request.

Mr. Lloyd inquired if the equipment is still included in the total (yes). **Sen. Keating** asked about incinerators and fee coverage.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 2; Side : A; Approx. Time Counter : 8.4}

Motion/Vote: SEN. KEATING moved that DP 14 AT THE LEVEL OF \$42,000 BE ADOPTED. SECONDED by SEN. CRISMORE. Motion carried unanimously.

DP 15

Sen. Keating asked about the balance in the Air Quality Account, and asked how important this database conversion is. He then requested to pass consideration on this decision package.

DP 17

Ms. Sensibaugh commented that they are not retiring the existing vehicle, but are moving it to Helena. **Mr. Lloyd** also commented that the public water supply fees also fund a portion of this.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 2; Side : A; Approx. Time Counter : 16.5}

Motion/Vote: SEN. KEATING moved that DP 17 BE ADOPTED. SECONDED by SEN. CRISMORE. Motion carried 5-1 with Witt voting no.

DP 18

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 2; Side : A; Approx. Time Counter : 18.6}

Motion/Vote: SEN. NELSON moved that DP 18 BE ADOPTED. SECONDED
by REP. TROPILA. Motion carried unanimously.

DP 19

Mr. Lloyd commented that the primary funding source is water and waste water operator license fees, and is a possible CI-75 issue. Ms. Sensibaugh commented that this area can use federal money, so there is no need to increase fees. Sen. Keating suggested to pass consideration on this decision package to see how SB 72 does.

DP 20

Sen. Keating asked if this money goes to help people renovate, and if it is all federal funds (yes).

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 2; Side : A; Approx. Time Counter : 25.2}

Motion/Vote: SEN. KEATING moved that DP 20 BE ADOPTED. SECONDED
by SEN. CRISMORE. Motion carried unanimously.

DP 21

Sen. Keating inquired if they have to use general fund for this. Ms. Hanson replied yes: 1/3 general fund and 2/3 solid waste fees.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 2; Side : A; Approx. Time Counter : 28}

Motion/Vote: SEN. KEATING moved that DP 21 BE ADOPTED. SECONDED
by REP. TROPILA. Motion carried unanimously.

Break @ 9:32am *{Tape : 2; Side : A; Approx. Time Counter : 28.2}*

Curt Chisholm handed out a sheet on Fee Increase Legislation at the Request of the DEQ.

EXHIBIT (jnh38a03)

DP 22

Rep. Haines questioned the 3 computers and inquired how many there are in total. He also asked how they decided on the 3 year cycle of replacing 1/3 of the computers per year. **Sen. Keating** then asked why the use of general fund.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 2; Side : B; Approx. Time Counter : 2.5}

Motion/Vote: SEN. CRISMORE moved that DP 22 BE ADOPTED. SECONDED by SEN. KEATING. Motion carried unanimously.

DP 23

The division addressed bond forfeitures, and a committee discussion ensued.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 2; Side : B; Approx. Time Counter : 16.4}

Motion/Vote: SEN. CRISMORE moved that DP 23 BE ADOPTED WITH ADJUSTMENTS TO TOTAL \$57 MILLION IN THE BASE AS A BIENNIAL AND RESTRICTED APPROPRIATION. SECONDED by REP. TROPILA. Motion carried unanimously.

DP 25

Sen. Keating asked if they use the groundwater assessment program in this area at all.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 2; Side : B; Approx. Time Counter : 22.8}

Motion/Vote: SEN. KEATING moved that DP 25 BE ADOPTED. SECONDED by SEN. CRISMORE. Motion carried unanimously.

DP 26

Sen. Keating questioned the use of general fund when reclamation money is there with a \$1.4 million surplus.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 2; Side : B; Approx. Time Counter : 25.8}

Motion/Vote: SEN. KEATING moved that DP 26 BE ADOPTED, USING ALL RIT FUNDS, AS ONE-TIME-ONLY AND RESTRICTED. SECONDED by SEN. NELSON. Motion carried unanimously.

DP 27

The committee brought up the Dept. of Agriculture rent program in the discussion of this decision package.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 2; Side : B; Approx. Time Counter : 29.8}

Motion/Vote: SEN. NELSON moved that JUST THE RENT REQUEST OF DP 27 BE ADOPTED. SECONDED by SEN. CRISMORE. Motion carried unanimously.

{Tape : 2; Side : B; Approx. Time Counter : 30}

Motion/Vote: SEN. NELSON moved that FEDERAL DECREASES BE ADOPTED. SECONDED by REP. HAINES. Motion carried unanimously.

DP 28

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 3; Side : A; Approx. Time Counter : 8.5}

Motion/Vote: SEN. KEATING moved that DP 28 BE ADOPTED AS A RESTRICTED BIENNIAL APPROPRIATION OF \$78,675. SECONDED by SEN. CRISMORE. Motion carried unanimously.

DP 29

Mr. Lloyd commented on the LFD Issues concerning this decision package, and Sen. Keating inquired about the 7UP-Pete venture in Lincoln.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 3; Side : A; Approx. Time Counter : 13.9}

Motion/Vote: SEN. KEATING moved that DP 29 BE ADOPTED AS A \$1 MILLION BIENNIAL APPROPRIATION, INCLUDING THE BASE AMOUNT AND RESTRICTED TO MEPA. SECONDED by SEN. CRISMORE. Motion carried unanimously.

DP 30

Mr. Lloyd addressed the LFD Issues for this decision package. Ms. Hanson commented on the difference in leases in this case. Sen. Keating recommended to pass consideration on this decision package and include it with the rest of the air quality package.

New Proposals:

DP 1

Mr. Lloyd remarked that this is funded with waste water discharge fees, and has a possible CI-75 Issue. Ms. Hanson added that the current fund balance in this account is over \$800,000. No action was taken.

DP 2

Sen. Keating asked how much loss in money are we protecting against. Mr. Chisholm replied that they are protecting the \$1.7 million reduction and the canceling of the total bond and the \$15 million realized in the next few years. So, about \$30 million.

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - PERMITTING & COMPLIANCE
DIVISION**

{Tape : 3; Side : A; Approx. Time Counter : 30}

Motion/Vote: SEN. KEATING moved that DP 2 BE ADOPTED AS ONE-TIME-ONLY AND RESTRICTED. SECONDED by SEN. CRISMORE. Motion carried unanimously.

Sen. Keating inquired about Apollo Gold and MT Tunnels.

**HEARING ON HB 2 - DEQ BUDGET - PLANNING, PREVENTION & COMPLIANCE
DIVISION**

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Mr. Lloyd addressed alternative energy while referring to page **C-66** of the LBA 2001 budget book. **Mr. Chisholm** commented that it has a projected ending fund balance of \$402,000. He then asked to put this in general fund for "a couple of favors" and proceeded to handout two new department proposals: Plan A and Plan B. Further committee discussion ensued.

EXHIBIT(jnh38a04) & **EXHIBIT(jnh38a05)**, respectively.

HEARING ON HB 2 - DEQ BUDGET - CENTRAL MANAGEMENT PROGRAM

Mr. Lloyd discussed the rates on page **C-58** of the LBA 2001 budget book. **Sen. Keating** asked, if the committee goes along with the rate requested, then would they be setting indirect costs at a greater level than the committee has appropriated.

Dave Thorsen commented that the program is asking to set a maximum indirect rate. He then went on to comment on pages CMP 13 and CMP 14 of the DEQ overview packet (Exhibit 3, 2/9/99). A handout of DEQ FY00 IDC CALC of the Indirect Cost Rate was given to the committee, along with DEQ Comparisons of Indirect Cost Rates.

EXHIBIT(jnh38a06) & **EXHIBIT(jnh38a07)**, respectively.

Sen. Keating questioned the requested rates on the bottom of the chart on page **C-58** of the LBA 2001 budget book. He then asked what the anticipated actual rate will be in FY00 and FY01. The department replied between 22% to 22.5%, excluding database development funds. The Senator then inquired if those rates have been federally approved yet (not yet).

**EXECUTIVE ACTION ON HB 2 - DEQ BUDGET - CENTRAL MANAGEMENT
PROGRAM**

{Tape : 4; Side : A; Approx. Time Counter : 6.4}

Motion/Vote: **SEN. KEATING** moved that **THE DEPARTMENT'S REQUEST FOR THE 23% INDIRECT COST RATE BE ADOPTED. SECONDED** by **SEN. CRISMORE**. Motion carried unanimously.

Sen. Keating mentioned that he would like to reconsider action taken on HUD (in the Department of Commerce) during the next meeting. He commented that HUD clients would be better served by the state than by the feds.

Chairman Witt commented that he would also like to go back through the Board of Investments in the Dept. of Commerce and take another look at rental rates.

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Director Simonich discussed his four issues: alternative energy, indirect DP's in divisions, DP in Central Management for a database, and Air Quality Fees. The first three have been dealt with, so that leaves Air Quality fees to delve into. **Sen. Keating** suggested to the department that Air Quality fee bills are going to be dependant upon industry, and dependent upon where that fee bill will be. **Mr. Lloyd** then commented on other bills, aside from HB 2, that deal with Air Quality fees.

ADJOURNMENT

Adjournment: 11:37 A.M.

REP. JOHN WITT, Chairman

SUMMER ALGER, Secretary

JW/SA

EXHIBIT (jnh38aad)